

REMARKS

Claims 1-19 are pending in the Application. In response to Applicant's Supplemental Brief in Support (submitted on March 29, 2001), the Examiner's Answer (submitted on March 31, 2004) and Applicant's Reply Brief (submitted on May 12, 2004), the Board of Patent Appeals and Interferences sustained the Examiner's rejections with respect to claims 1, 5-7, 11 and 14-18 and reversed the Examiner's rejections with respect to claims 2-4, 8-10, 12, 13 and 19. Applicant has subsequently cancelled claims 1, 5-7, 11 and 14-18 and amended claims 2, 8, 9, 12 and 19 to be rewritten in independent form as indicated above. Subsequently, claims 2-4, 8-10, 12-13 and 19 are allowable. Applicant respectfully requests the Examiner to issue a notice of allowance allowing claims 2-4, 8-10, 12-13 and 19.

Applicant notes that claims 2, 8, 9, 12 and 19 were amended not to overcome prior art but to be rewritten in independent form. Hence, no prosecution history estoppel arises from the amendment to claims 2, 8, 9, 12 and 19. *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 62 U.S.P.Q.2d 1705, 1711-12 (2002); 56 U.S.P.Q.2d 1865, 1870 (Fed. Cir. 2000). Further, the amendments made to claims 2, 8, 9, 12 and 19 were not made for a substantial reason related to patentability and therefore no prosecution history estoppel arises from such amendments. *See Festo Corp.*, 62 U.S.P.Q.2d 1705 at 1707 (2002); *Warner-Jenkinson Co. v. Hilton Davis Chemical Co.*, 41 U.S.P.Q.2d 1865, 1873 (1997).

CONCLUSION:

As a result of the foregoing, it is asserted by Applicant that claims 2-4, 8-10, 12-13 and 19 in the Application are in condition for allowance, and Applicant respectfully requests an allowance of such claims. Applicant respectfully requests that the Examiner call Applicant's attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining issues.

Respectfully submitted,

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